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Subject: **Revised Code of Ordinances-Chapter 4 Plain Text**
Date: September 4, 2013 11:20:12 AM EDT
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Section 402. Building Setback Lines, Lot Coverage and Floor Area Ratio

(a) Purpose.

(1) To protect the public health, safety and welfare of the Citizens of Garrett Park and, more specifically, to: preserve and protect the lands and improvements within the Town by ensuring that all proposed new construction and alterations to buildings in the Town be compatible with the Town's existing scale, natural topography, vegetation, trees, physical setting, and density of development.

(1.1) Preserve the unique park-like setting of the 19th century garden suburb, maintain the prevailing pattern of houses and open spaces, and retain the maximum amount of green area surrounding new or expanded houses.

(1.2) Encourage a compatible relationship between new or expanded houses and neighboring structures in scale, siting, and orientation on the lot.

(1.3) Maintain housing diversity and choice by retaining existing housing stock yet allowing a reasonable amount of expansion in living space.

(2) To establish stricter or additional building height, bulk, massing, design, location, setback and lot coverage requirements than those of the

current Montgomery County Zoning Ordinance for the construction, repair, erection, or remodeling of houses, buildings, or other structures on land zoned for single-family residential use.

(3) To provide a procedure for a variance from the strict application of the building requirements contained in this section.

(b) Application and Interpretation. As provided in Article 28 of the Maryland Code, the Montgomery County Zoning Ordinance applies to all property in Garrett Park. In addition, all buildings on land zoned for single-family residential use shall comply with the requirements of this Chapter 4 in effect at the time of the issuance of a Town building permit. If a term used in this Chapter is not defined herein, but is defined in the Montgomery County Zoning Ordinance, it shall have the meaning ascribed to it in the Montgomery County Zoning Ordinance.

(c) Setback, Lot Coverage and Floor Area Ratio Requirements. All buildings on land zoned for single-family residential use hereafter erected or altered shall adhere to the setback, lot coverage and floor area ratio requirements set forth below:

(1) Setback from street. No main building or new construction

shall be nearer to any street right-of-way than thirty (30) feet.

Additionally,

(1.1) If any adjacent lot is occupied by a main building with a front yard setback greater than this requirement, no main building hereafter erected and no addition to an existing main building shall project beyond the line previously established by the existing main buildings on the adjacent lots; or

(1.2) If only one adjacent lot is occupied by a main building with a front yard setback greater than this requirement, no main building hereafter erected and no addition to an existing main building shall project beyond a line established by the average of the front yard setback of the adjacent main building and thirty (30) feet.

(1.3) Notwithstanding the above, open porches added to structures

existing as of February 15, 2000 may extend up to eight (8) feet beyond the required front yard setback line and may be roofed.

(1.4) For the purposes of Section 402 (c)(1)(1.1) and 402 (c)(1)(1.2) of the Garrett Park Town Code, if the main building on an adjacent lot is set back by more than 90 (ninety) feet, it shall be considered to be set back by 90 (ninety) feet.

(2) Setback from adjacent properties. No main building on land zoned for single-family residential use shall be nearer to any property line (other than a property line adjacent to a street right of way, as provided in Section 402(c)(1)) than the following:

(2.1) Minimum side yard setback:

(a) One side: 10 feet; and

(b) Sum of both sides:

(i) 25 feet for lots with over 60 feet in width at the front main building line; or

(ii) 20 feet for lots with 60 feet or less in width at the front main building line.

(2.2) Minimum rear yard setback:

(a) 25 feet for lots over 90 feet in depth at the location at which the main building is closest to the property line;

(b) 15 feet for lots 90 feet or less in depth at the location at which the main building is closest to the property line.

(3) Maximum lot coverage. The maximum percentage of the lot area that may be covered by a main building is eighteen (18) percent and the maximum percentage of the lot area that may be covered by main and accessory buildings cumulatively is twenty (20) percent.

(4) Floor Area Ratio. The maximum floor area ratio for main plus accessory buildings is .375.

(d) The following exemptions for projections shall apply to the requirements of Sections 402(c)(1) and 402(c)(2).

(1) (A) Open roofless steps, stoops, exterior stairways and terraces may extend into any minimum front yard or rear yard setback area by not more than 9 feet.

(B) For lots over 90 feet in depth, open roofless porches and decks may extend into a minimum rear yard setback area by not more than 9 feet, provided that any such feature that is roofed may not extend more than 3 feet into any minimum rear yard setback area. For lots 90 feet or less in depth, open roofless porches and decks may not extend into a minimum rear yard setback area.

(2) Open roofed or roofless steps, stoops, exterior stairways, terraces, porches and decks may extend into any minimum side yard setback area not more than 3 feet.

(3) Open roofed steps, stoops, exterior stairways and terraces may not extend more than 3 feet into any minimum front yard or rear yard setback area.

(4) Any bay window, entrance or balcony may project not more than 3 feet into a minimum front yard or rear yard setback area, provided that such feature does not exceed 10 feet in width.

(5) Cornices and eaves may project not more than 2 ½ feet over any minimum setback area. This exemption does not apply to cornices and eaves on steps, stoops, exterior stairways, terraces, porches, decks, bay windows, entrances or balconies.

(6) Sills, leaders, belt courses, and similar ornamental features may project not more than 6 inches over any minimum setback area.

(7) Open, roofless fire escapes, if required by the Montgomery County building code, may project not more than 5 feet over any minimum setback area.

(8) Chimneys may project not more than 24 inches into any minimum setback area.

(9) Chimneys used as walls may not project into any minimum setback area.

(10) Air conditioners and heat pumps may project not more than 5 feet into any minimum front yard or rear yard setback area. Any air conditioners or heat pumps existing within any minimum side yard setback area prior to July 3, 2012 may be continued and replaced.

(e) The following building elements shall be included in the calculation of lot coverage and floor area ratio in accordance with the following table:

Element

Lot Coverage

Floor Area Ratio

Open and roofless steps, stoops, exterior stairways, and terraces

No

No

Open and roofed steps, stoops, exterior stairways, and terraces

Yes

No

Enclosed steps, stoops, exterior stairways, and terraces

Yes

Yes

Roofless and open porches and decks

No

No

Roofed open porches

Yes

No

Enclosed porches

Yes

Yes

Bay windows

Yes

Yes

Open roofless entrance or balcony

Open roofed entrance or balcony

Enclosed entrance or balcony

Yes

Yes

Yes

No

No

Yes

Cornices, eaves, sills, leaders, belt courses, and similar ornamental features

No

No

Chimneys

Yes

Yes

Open roofless fire escapes

No

No

Open roofed fire escapes

Yes

No

Enclosed fire escapes

Yes

Yes

Air conditioners and heat pumps

No

No

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Section 403. Variances

(a) Purpose. It is the purpose of this Section to provide a procedure for a variance

from the strict application of these building requirements in specific cases where the unusual dimensions, shape, topography, or other exceptional characteristics of a particular lot are such that the strict and literal enforcement of the Chapter would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship on, the owner of the property.

(b) Procedure

(1) Application. An application for a variance shall be made to the Council on a form provided by the Council, shall be accompanied by such plans, drawings, photographs and other documents as may be required by the Council and shall set forth the Section of this Chapter under which the building permit was denied, the basis for the claim of need for relief and the nature and extent of the relief sought.

(2) Public Hearing. On each application for a variance a public hearing shall be held and a written opinion made public.

(c) Conditions upon which relief may be predicated

(1) No variance shall be granted unless the Council finds, on the basis of the evidence of record that good cause has been shown on the following grounds for relief from the strict application of the building requirements.

(1.1) Because of the unusual dimensions, shape, topography or other exceptional characteristics of the lot, the lot cannot accommodate the building sought to be erected if the requirements of Section 402 are strictly applied to the construction and the strict and literal application of Section 402 to the lot would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship on, the owner of the property.

(1.1.1) The following conditions do not constitute hardship or difficulty as those terms are used herein:

1. Alleged violations of this Chapter by others;
2. The existence of nearby non-conforming uses;
3. The granting of a waiver or variance on other lots;
4. Any condition that results from the actions of the applicant; or
5. The existence of a building constructed in violation of this Chapter.

(1.1.2) If the alteration of the dwelling is required mainly as an aid to a disabled resident and no other reasonable feasible alternative is available, then the practical difficulties standard of Section 403(c)(1.1) above shall be deemed to have been met.

(1.1.3) If the building(s) sought to be erected cover more than eighteen (18) per cent of the net lot area and if the net lot area is equal to or less than 8,600 square feet then the exceptional characteristics standard of Section 403(c)(1.1) above shall be deemed to have been met.

(1.2) When considering an application for a variance, the Council must consider these criteria:

(1.2.1) The net lot area to be covered by buildings, including accessory buildings, should not exceed twenty (20) percent of the net lot area, unless the lot area is equal to or less than 8,600 square feet. If the lot area is equal to or less than 8,600 square feet, then the net lot area to be covered by buildings, including accessory buildings, shall not exceed 1,720 square feet or 25 per cent of the net lot area, whichever is less. Net lot area is defined as the total horizontal area included within the rear, side and front lot lines; and

(1.2.2)] whether approval of the application for relief will be in harmony with the general purposes of this Chapter and will not be contrary to the public interest.

(2) Specific Conditions. In granting a variance, the Council shall permit the least departure from the requirements of this Chapter that will give relief to the applicant. The Council may attach such conditions to the grant of variance, as it considers necessary to accomplish the intent of Sections 402 and 403 of this Code.

(d) Exemptions

(1) Existing Buildings. An existing building which was lawful when established, but which no longer conforms to the requirements of this Chapter because of the amendment of this Chapter, may continue as built and may be replaced or repaired, but may not be expanded, except to the extent that such expansion meets the requirements of this Chapter.

(2) Existing Building Permits. Construction for which a building permit was granted both by Montgomery County and by the Town before July 3, 2012 may proceed under the regulations and conditions that prevailed when the permits were granted provided, however, that any such construction that does not comply with the provisions of this Chapter shall have begun within twenty-four (24) months of July 3, 2012.